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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 316 of 2004

Date of Decision: 3-2-2005

SHAKRABHAI B PATEL

Versus

BHARAT SANCHAR NIGAM LTD

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

For the Petitioner Mr.P.H.Pathak, Adv.

For the Respondent Mr.M.S.Rao, Adv.

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

#. Rule. Shri M.S.Rao, learned counsel, waives service on behalf of respondent. Matter is heard finally with consent of learned counsel for the parties, being a short matter relating to pension of a retired Government/BSNL employee.

Whether reporters of Local Papers may be allowed to see the Judgment?

#. Precisely speaking, grievance of the petitioner is that his pension has been calculated on the basic pay of Rs.10275/= instead of Rs.11400/=.

#. Shri M.S.Rao, learned counsel for the respondent, submits that this has been done on the request made by petitioner vide letter dated 2.6.2003 and in view of Letters Patent Appeal, sought to be restored at the instance of Union of India, having been dismissed for want of prosecution.

#. Shri P.H.Pathak, learned counsel for the petitioner, submits that petitioner submitted letter dated 2.6.2003 because he was likely to face starvation, however, vide letter dated 27.5.2003, the respondent had been informed that Letters Patent Appeal stood dismissed by High Court of Delhi.

#. Position today is that although Letters Patent Appeal was dismissed for want of prosecution, application for restoration thereof has been filed by the Union of India though no decision has yet been passed on that application. Assuming, the Letters Patent Appeal is restored and decided on merits, this way or that way, the petitioner should not be deprived of pension calculated on the basic pay of Rs.11400/= since other employees of similar category are availing pension on this basic pay. Further, in case the respondent succeeds in Letters Patent Appeal, it can recover the excess amount paid to the petitioner from his pension.

#. Consequently, the petition is disposed of with direction to respondent to calculate the pension of the petitioner on the basic pay of Rs.11400/= and to pay the same within a period of two months subject to decision of the High Court of Delhi in Letters Patent Appeal No.109 of 1984 or any final order in the matter. Amount of Rs.50,000/= withheld by respondent be also paid to the petitioner within a month. Rule made absolute accordingly. No costs.

(BHAWANI SINGH)
CHIEF JUSTICE

(H.K.RATHOD)
JUDGE

(sunil)